
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

UNITED STATES OF AMERICA, Plaintiff, v. WILLIAM BESMEHN, Defendant.	MEMORANDUM DECISION AND ORDER DENYING DEFENDANT'S MOTION TO MODIFY SENTENCE Case No. 2:20-CR-317 TS District Judge Ted Stewart
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This matter is before the Court on Defendant's Motion to Modify Sentence. "A district court does not have inherent authority to modify a previously imposed sentence; it may do so only pursuant to statutory authorization."¹ Because Defendant's Motion is not a direct appeal or a collateral attack under 28 U.S.C. § 2255, his Motion depends on 18 U.S.C. § 3582(c) or Federal Rule of Criminal Procedure 36.²

"Section 3582(c) . . . provides three avenues through which the court may 'modify a term of imprisonment once it has been imposed.'"³

A court may modify a sentence: (1) in certain circumstances "upon motion of the Director of the Bureau of Prisons"; (2) "to the extent otherwise expressly permitted by statute or by Rule 35 of the Federal Rules of Criminal Procedure"; or (3) "upon motion of the defendant or the Director of the Bureau of Prisons," or on

¹ *United States v. Mendoza*, 118 F.3d 707, 709 (10th Cir. 1997).

² *United States v. Smartt*, 129 F.3d 539, 540 (10th Cir. 1997).

³ *United States v. Blackwell*, 81 F.3d 945, 947 (10th Cir. 1996).

the court's own motion in cases where the applicable sentencing range "has subsequently been lowered by the Sentencing Commission."⁴

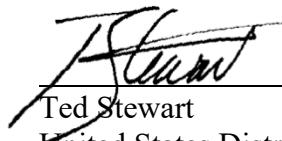
Defendant's Motion appears to rely on potential future changes to the sentencing guidelines. However, at this point Defendant's sentencing range has not been lowered by the Sentencing Commission. Should the guidelines be amended in such a manner as to afford Defendant relief, he may reassert his Motion.

It is therefore

ORDERED that Defendant's Motion to Modify Sentence (Docket No. 68) is DENIED without prejudice.

DATED this 29th day of August, 2023.

BY THE COURT:



Ted Stewart
United States District Judge

⁴ *Id.* at 947–48 (quoting 18 U.S.C. §§ 3582(c)(1)(A), (c)(1)(B), (c)(2)). Section 3582(c)(1)(A) has since been amended by the First Step Act to expand a prisoner's ability to seek compassionate release. This amendment does not alter the Court's analysis.